



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,992	03/21/2002	Rodolfo Mann Pelz	10191/1969	8032
26646	7590	10/26/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			WEST, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

CW

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---------------------------------------------------	---------------------

09/913 992

EXAMINER

ART UNIT	PAPER
----------	-------

20051016

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Response to Reply Brief

1. The reply brief filed July 28, 2005, has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

2. The Following arguments are also noted:

Applicant argues that “[i]n the Examiner’s Answer, it is asserted that Fig. 6 and col. 5, lines 44-62 of Gray, which refer to buttons 910 and 920 of a touch screen interface 330 to adjust the volume, treble and bass of a CD player, or to perform channel selection of a AM/FM radio, disclose the features of claims 11 and 19 with respect to ‘an arrangement to maintain the other components’ because such buttons allegedly maintain operation of the device at a selected setting. In this regard, the Answer asserts that it is reasonable to interpret the term ‘maintain’ in this manner because the present application allegedly does not expressly define what it means to maintain a component or indicate which particular maintaining operations are carried out by the service element. However, such assertions fail to account for those instances where the present application clearly demonstrates examples of how the service element performs its maintenance functions. In particular, the present application provides, for example, that the service element checks the other components of the distributed system at regular intervals (See page 7, lines 6 to 8), or that the service element conducts an error diagnosis once a day or every week or once a month (See page 7, lines 14 to 19), or that the service element monitors the

availability of new software versions for each individual component of the distributed system (See page 7, lines 20 to 21). Accordingly, it is clear, even from just a cursory reading of the specification, that maintaining a component of a distributed system, as recited in claims 11 and 19, involves more than just a mere volume adjustment or channel selection. Indeed, those skilled in the art would understand after reading the entire specification that adjusting the volume of a CD player, or changing to a different radio station of an AM/FM radio, is not the same as maintaining these devices as part of distributed system."

The Examiner asserts that the above-mentioned specific examples, on page 7 of the specification, are the specifics disclosed with respect to upgrading new software versions. The final paragraph on page 7 further states that "The new software version is tested for errors, using test vectors, and is then configured for the corresponding components. Such an upgrade is then automatically carried out by the visitor alone" (emphasis added).

The Examiner further asserts that the specification on page 2, lines 18-24, specifically states,

"A further refinement of the present invention provides for the service element of the present invention loading new software versions of software running on individual components of the distributed system, using a communication element available in the distributed system, and for the service element of the present invention initially checking the new software versions, in order to then configure them for the specific component. Consequently, the user is freed from the work-intensive updating of the software, which is often done in short intervals. This saves a considerable amount of work."

Therefore, Applicant is attempting to provide a specific definition for "maintaining" by referring to the specific examples for "upgrading" provided by the specification.

Independent claims 11 and 19 include both an "arrangement for upgrading" and an "arrangement for maintaining". If Applicant is asserting that the "upgrading" function and the "maintaining" function both correspond to the function for updating the software versions, then the teaching of "upgrading" as taught by Gray and Buckley, will apply equally to the limitation for "maintaining".

The Examiner also points out that Applicant admits that the invention of Gray teaches such an upgrading limitation through upgrading of the devices via the control center: "The Gray patent only provides for configuration and upgrading of devices via a vehicle control center that may be used to control various devices of the vehicle (e.g., air bag activation, etc.)" (Appeal Brief, page 5, lines 28-31).

Applicant also argues, "The Answer further asserts that its interpretation of the claimed language is consistent with the general dictionary definition, which allegedly defines the term 'maintain' as 'to keep in an existing state.' However, the Answer has not clearly demonstrated how this alleged dictionary definition 'to keep in an existing state' supports interpreting the term 'maintain' as changing the volume of a CD player, for example. In particular, it is unclear how changing the volume of a CD player keeps it in its existing state. Indeed, it would seem that the purported definition leads to just the opposite conclusion - - that is, the existing state of the CD player changes when the volume is changed (e.g., the CD player operates with different electrical and acoustic properties)."

The Examiner maintains that Gray discloses a service element for controlling other components of a distributed system via a GUI arrangement. This control includes the configuring of other components, for example sound, heat/ac, and lighting systems, and upon configuring the other component to a specific setting, maintaining the component at the specific setting for proper operation such as maintaining the sound system at a particular channel frequency and volume setting, maintaining the heat/ac at its desired level of operation to maintain temperature conditions (i.e. "A heating/air conditioning unit 250 can be controlled using the vehicle control center to set the appropriate environmental conditions within the passenger cabin", column 3, lines 49-52), and/or maintaining the power applied to the cabin lights to maintain the light at a desired output/brightness.

Therefore, the Examiner maintains that in the invention of Gray, the output of the control center not only adjusts the settings of the sound, heat/ac, and lighting systems, but also maintains the output of the control center to maintain the power applied to the cabin lights at a desired brightness, maintain the operation of the heat/ac to maintain the environmental conditions within the passenger cabin, and maintain the operation of the sound system at a particular channel frequency and volume setting.

Applicant then argues, "The Answer further asserts that col. 3, lines 49 to 55 of Gray, which refer to devices involving 'airbag activation', 'emergency rescue', 'alarms' and 'anti-theft system', disclose the features of claims 11 and 19 with

respect to 'an arrangement to perform an emergency function' because such devices are under the control of the vehicle control center. In particular, the Answer asserts that through such control the vehicle control center is performing an emergency function, and that this is apparent because if the vehicle control center were not present the emergency functions would not be performed. However, such assertions are clearly wrong, or at least unsupported, because (1) Gray does not discuss in any way how the vehicle control center controls these devices to perform an airbag activation, an emergency rescue, or anti-theft function, and (2) Gray does not state that the vehicle control center must be present or that the attached devices would not perform their functions if the vehicle control center were not present. Instead, Gray refers only to the use of JavaBeans to implement a device interface (i.e., a graphical user interface), which 'provides user access to devices operating in the vehicle'. Gray Abstract, lines 2 to 4 (emphasis added). Accordingly, no decision is made by the vehicle control center as to when, how or if a particular emergency function is performed. Moreover, the vehicle control center may have no a priori knowledge of the type of device being attached. See Gray, col. 8, lines 61 to 63."

The Examiner first asserts that the above-mentioned argument as provided by the Examiner was in response to Applicants argument that "The Gray patent does not describe that the vehicle control center, itself, performs an emergency function."

With respect to the argument that "(1) Gray does not discuss in any way how the vehicle control center controls these devices to perform an airbag activation, an

emergency rescue, or anti-theft function, and (2) Gray does not state that the vehicle control center must be present or that the attached devices would not perform their functions if the vehicle control center were not present", the Examiner maintains that the invention of Gray specifically states:

"A plurality of attached vehicle devices 130 are also connected to the bus to be controlled by the vehicle control center" (column 3, lines 30-32) and "Other attached devices can be used in the network vehicle. These include radar, air bag activation and status, video cameras, emergency rescue, alarms, anti-theft system..." (column 3, lines 42-55).

Therefore, these sections of Gray explicitly disclose that the emergency devices and their corresponding emergency functions are controlled by the vehicle control center and therefore meet the limitation for "an arrangement for performing an emergency function".

Further, the Examiner also points out that Applicant admits that the invention of Gray does teach that the control center controls the emergency air bag activation function: "The Gray patent only provides for configuration and upgrading of devices via a vehicle control center that may be used to control various devices of the vehicle (e.g., air bag activation, etc.)" (Appeal Brief, page 5, lines 28-31).

Applicant further argues, "The Answer further asserts that col. 4, line 65 to col. 5, line 6, and col. 6, lines 34 to 40 and 62 to 64 of Gray, which refer to the downloading of the most recent version of a manufacturer's device interface from a URL network

address, and col. 9, lines 28 to 37 of Buckley, which refer to a firmware upgrade of system initialization software stored in a flash EEPROM residing on the microprocessor of a center instrument panel node (CIPN), disclose the features of claims 11 and 19 with respect to 'an arrangement to upgrade the other components'. However, such an assertion is clearly wrong because both Gray and Buckley fail to disclose a component that upgrades other independent components. That is, Gray and Buckley refer only to a download or firmware upgrade, which are received by a single component of the system but not distributed to the other components. In particular, in Gray the manufacturer's device interface is downloaded only to the vehicle control center and never transferred to any of the other devices. This makes sense because a device would presumably never need an interface to access itself. Likewise, in Buckley, any firmware upgrade of the system initialization software stored in the flash EEPROM of the microprocessor 502 of the CIPN 300 is localized to the CIPN 300 itself and not to other nodes. See, for example, Figure 5, and col. 3, line 12, which states that '[t]he microprocessor (is) resident in CIPN 300 (502 of Fig. 5) ...'.

The Examiner maintains that the invention of Gray specifically states:

"The manufacturer of such devices provides a JavaBean™ interface stored with the device. When a device is installed in the vehicle, the processor or other control element of the vehicle control center becomes aware of the installation and requests or otherwise receives the stored JavaBean™ interface from the device. The vehicle control center can then use the interface as received or replace it with a different interface already stored in memory" (column 1, lines 43-51).

Therefore, since the interface is stored within the device itself, upgrading the interface to a newly downloaded interface will also result in upgrading the device to contain the newly downloaded interface.

The Examiner also points out that Applicant admits that the invention of Gray teaches that the upgrading is not only upgrading of the vehicle control center, but is also the upgrading of the individual devices: "The Gray patent only provides for configuration and upgrading of devices via a vehicle control center that may be used to control various devices of the vehicle (e.g., air bag activation, etc.)" (emphasis added, Appeal Brief, page 5, lines 28-31). Therefore, Appellant is admitting that the invention of Gray does include a service element (i.e. vehicle control center) that is used to configure and upgrade the other components, as required in claims 11 and 19.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2857

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrw
October 17, 2005


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800